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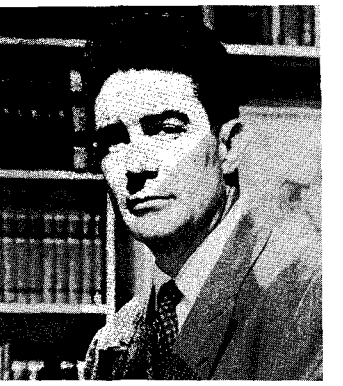

DAN SMOOT

WHEAT REFERENDUM, 1963

The Agricultural Adjustment Act of 1938 (as amended) provides for referendum voting among farmers. The Department of Agriculture proposes a crop control program, and farmers with an established record of producing that crop vote to accept or reject. If two-thirds of those voting "approve," the program goes into effect; and all farmers are bound by it, under heavy penalties for violations of the administrative regulations.

This referendum principle violates a basic premise of American constitutional government — namely, that the rule of the majority is limited by inalienable rights of individuals. The farmers who vote *no* in a referendum are not left alone to till their own land in their own way. The full force of the federal government (backed by the guns of federal police agents) compels them to surrender their constitutional rights in compliance with the "will" of the voting majority. Thus, a "democracy" works. America was founded as a Republic. In a Republic, law and the Constitution prevail, not the current whim of a majority.

The referendum provision — on its face — is discriminatory, class legislation, alien to American principles of law.

A Department of Agriculture referendum gives *one* class of Americans (farmers) the privilege of voting, for themselves, subsidies that are to be paid by *all* taxpayers. Truckdrivers, businessmen, doctors, lawyers, elevator operators — the majority of American taxpayers who live in cities — do not have a vote in a referendum which determines whether *their* tax money shall be taken to pay subsidies for certain groups of farmers.

A Department of Agriculture referendum is by no means a free election, even among farmers. The Department, with thousands of employees, and with billions of tax dollars to dispense, uses its vast resources and limitless power to campaign for the kind of vote officialdom

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wants, threatening farmers with disaster if they vote wrong; promising rich rewards if they vote right. The Department has absolute power to set the dates of a referendum, determine all rules, decide who is eligible to vote, officiate at the elections, and count the votes. Any complaint about the conduct of the referendum is handled by the officials who conducted it.

A Department of Agriculture referendum is a Soviet-style "election" in another important sense: the farmers who vote can merely register a *yes* or a *no*. The *yes* generally means higher federal subsidies and tighter controls. The *no* means lower subsidies and looser controls. No Department of Agriculture referendum has ever given a farmer a chance to make a choice between free agriculture and socialized agriculture.

Compulsory Wheat Controls

Prior to 1954, Department of Agriculture regulations did, however, leave American wheat farmers an important freedom of choice: a wheat farmer who did not vote in a wheat referendum, or otherwise participate in the government's wheat program, could raise and dispose of wheat as he pleased. The only penalty for not participating in the government's wheat program was that, if he did not accept government controls, he did not get government handouts.

By rejecting controls and handouts for themselves, farmers could remain free to manage their wheat farms in their own way, even though they were taxed to pay for federal handouts to their competitors who wanted controls and handouts.

This relatively free system was abandoned in 1954. Why? Because a majority of American wheat farmers were refusing to participate in the government's "wheat program"!

Since 1954, government has used its police power to make farmers abide by wheat acreage controls whether they choose to accept the handouts or not. Enforcement of the wheat regulations has eliminated a wheat farmer's Fourth Amendment protection against illegal searches and seizures; abolished his right to trial by jury; and abrogated his Fifth Amendment privilege against being forced to testify against himself.

If you are a farmer, federal agents can trespass upon your property, without search warrants or other legal authorization, to see whether you are growing wheat. If they find that you are growing wheat, they can tramp around your place and measure your fields to see whether you are growing too much.

If the agents think you are growing too much wheat, they can order you to fill out a questionnaire admitting your "guilt." If you refuse, they can get a court order and force you to comply — or to be jailed, without trial, for contempt. The federal agents, who arbitrarily determine that you are growing too much wheat, can arbitrarily assess penalties. If you do not pay the penalties, the agents can seize your bank account, your personal property, and your farm. If you resist, you can be jailed, without trial.[1]

We are supposed to have constitutional government — which means that constitutional guarantees against tyranny cannot be set aside in compliance with majority opinion, referendums, or elections. A constitutional guarantee is supposed to be absolute — regardless of what the courts, the Congress, the President, or the people themselves may want. If the people do not like some provision of the Constitution (or want government to do something which the Constitution does not authorize) the people cannot eliminate the provision, or revise the Constitution, by referendums or popular elections. The people must amend the Constitution by due constitutional process.

In 1954, however, the constitutional rights of American wheat farmers were set aside on the authorization of a wheat referendum in which two-thirds of the farmers voting indicated approval of compulsory wheat acreage allotments.

Who voted in that referendum? Relatively few individuals, and many of them were not

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farmers in the sense that they were men who live, and work, on farms.

The Department of Agriculture's arbitrary rules about eligibility excluded from the vote all wheat farmers (a majority of the total) who had been refusing to participate.

Small, independent family-size wheat producers were not allowed to vote. A minority of large wheat growers — many of which are big-city syndicates, tax-exempt co-operatives, or absentee-owned company farms — had a preponderance of voting strength in the referendum which "authorized" compulsory controls on all wheat farmers, beginning in 1954.

Helping the "Little" Man

The compulsory wheat control program was instituted, according to official propaganda, to help our farmers — particularly the "little man." Indeed, the political argument which has induced Congress to "authorize," and the public to pay for, all federal agricultural programs (since they were first initiated by communists in the Henry Wallace Department of Agriculture during the first Administration of Franklin D. Roosevelt)[2] was the necessity of saving the small family-size farms of America.

But the federal farm programs are destroying the small, independent American farmer.

In 1938, when the population of the United States was 129 million, there were 7 million farms furnishing employment for 13 million Americans. In 1963, when the population is 185 million, there are 3½ million farms, furnishing employment for 7 million Americans.[3]

Federal subsidies enrich the operators of big farming syndicates; wealthy promoters; land speculators; and others who reside and work in cities but buy farms for entertainment, subsidies, and tax advantages; and dishonest operators like Billie Sol Estes.

Under the guise of advancing price-support loans, the Commodity Credit Corporation subsidizes big operators in the production of "surpluses" which the CCC holds in storage. Thus, the federal government destroys the free market for agricultural commodities. This, plus the tyrannical controls imposed by the Department of Agriculture, makes it impossible for small farmers to operate their farms profitably as free men. The maximum which small farmers can get in federal handouts is not enough to sustain them. So, the small farmers are moving to the cities, turning their farms over to the big syndicates and promoters, who are prospering, not on the land, but on tax money.

Farmers Who Love Freedom Are Treated as Criminals

Most of the small farmers who have thus been driven off their own land have gone quietly, in the silent desperation of men who feel it is foolhardy to "fight the government." But a significant number have the stiff-necked courage of pioneers who conquered the great West. They have not placidly surrendered their heritage of freedom. They have fought the "wheat police," and have suffered — as the cases of John Donaldson, Loren R. Gajewski, and Evetts Haley, Jr. (mentioned below) illustrate.

In contemporary America, any farmer who tries to live and work as a proud, free citizen of the Republic is treated, by his own government, as a criminal. This is particularly true of wheat farmers since compulsory acreage controls went into effect in 1954.

In 1955 alone (the first year after compulsory wheat acreage allotments began), the federal government fined 14,000 American farmers more than 8 and a half million dollars for growing too much wheat on their own farms. Most of them were small farmers, growing wheat to feed their own livestock — asking no subsidies or any other favors from government.

The John Donaldson case is fairly typical. Donaldson's 389-acre farm (near New London, Ohio) has been in his family since the American Revolution. He has farmed the place

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since 1937 (except for 4½ years during World War II when he served with the 37th Division in the Pacific).

In 1957, the local Agricultural Stabilization Committee charged Donaldson with planting 23 acres of wheat — 8 acres more than he was permitted. Donaldson hired a certified surveyor to survey his wheat crop. The surveyor's report showed 14 acres in wheat. Donaldson took the case to court.

The federal court refused to permit the surveyor's report in evidence, and refused to permit a jury trial. In early April, 1959, the Federal Judge threw the case out of court, thus leaving Donaldson no recourse against the fine which had been levied upon him "administratively."[4]

One of the most outrageous of all the "wheat penalty" cases involves Loren R. Gajewski, Alexander, North Dakota. The case began in 1954.

On April 7, 1960, the Department of Agriculture assessed a fine of 5 thousand dollars against Gajewski and his brother for overplanting wheat each year since 1954.

Gajewski resisted until his case became rather celebrated in his area. Other farmers were taking courage from his example.

In 1962, Gajewski was brought to trial on *criminal* charges — charges of *conspiracy* "to obviate" the Agricultural Act! He was convicted and given a two-year sentence in federal prison. He is presently out on bond, pending an appeal which will be heard in Federal Circuit Court at St. Louis on May 15, 1963.

Gajewski's crime is that he planted wheat on his family farm.

One Great Jurist

The attitude of most federal courts, with regard to wheat farmers who presume to fight for their own freedom, was indicated by Federal Judge Frank L. Kloeb at Toledo, Ohio. In 1956, Judge Kloeb (irritated because so many wheat farmers were coming into his court trying to test the constitutionality of the Agricultural Adjustment Act) said that such efforts were "preposterous" and that he was going to start "handing out stiff sentences" to farmers trying to test the validity of the law. The Judge said that the Agricultural Adjustment Act is the law of the land and that he would refuse "absolutely to go into the question of constitutionality."

One of the greatest jurists of our time, however, reflected an opposite attitude. Whereas other Federal Courts have consistently dismissed farmers' wheat penalty cases, throwing the farmers back on the tender mercies of the bureaucrats who assessed the penalties, Federal Judge T. Whitfield Davidson, in Dallas, gave Evetts Haley, Jr. his day in court.

Haley had been fined $506.11 for overplanting wheat on his farm in Oklahoma. The case came under the jurisdiction of Judge Davidson's court, because the bureaucrats had harassed Haley so much that he had to leave his farm and move to Dallas for a job (with this *Report*) to support his family.

Haley's case went to trial in Judge Davidson's Court on September 6, 1958. Entering a judgment in favor of Haley, Judge Davidson said that the federal farm program is unlawful and unconstitutional and that it is destroying the Christian concept of freedom which our Constitution was designed to protect.[5]

Government attorneys appealed directly to the Supreme Court, by-passing the normal, legal procedure of appealing to the Circuit Court.

On February 24, 1959, the Supreme Court (without giving Haley a hearing or his lawyers a chance to make arguments; without even notifying Haley or his lawyers of impending action) summarily reversed Judge Davidson's decision.[6]

On February 26, 1962, Judge Davidson declared the Supreme Court reversal void, on the grounds that the Supreme Court had no jurisdiction, since the case had not been properly appealed to the Circuit Court.[7]

On October 15, 1962, the U. S. Supreme Court granted the government's request for

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an order forcing Judge Davidson to accept the constitutionality of the Agricultural Adjustment Act and to review the Haley case.

On January 31, 1963, Judge Davidson reluctantly entered an order assessing the $506.11 wheat penalty against Evetts Haley, Jr., but filed with the order his "respectful dissent," saying:

"'Is it not lawful for me to do what I will with mine own?' . . .

"'The husbandman that laboreth must be the first partaker of the fruits.' . . .

"'The most comprehensive and valued right of man is to be let alone.'

"These were the views of Evetts Haley. . . . He was charged in court with violating the Marketing Act.

"He had sold nothing. He had injected nothing into the channels of commerce. . . . He had produced some wheat which he fed to his cows. A producer is not a marketer. . . .

"Produce is not commerce. True it may so become and so may an honest man become a thief. He is not jailed until he does.

"The Wickard and Haley decisions are far-reaching. They virtually abolish all distinction between domestic and interstate commerce. No lawyer in the light of these two decisions can safely tell his client the distinction between intrastate and interstate commerce.

"The Constitution nowhere confers the regulation of agriculture upon the Congress or the U. S. government. It does enumerate the powers granted in some 18 to 20 items, no one of which mentions agriculture or even production. And the Bill of Rights expressly forbids it. Thomas Jefferson was in France as our Ambassador there for some four years, returning to America while the adoption of the new constitution was a matter of much discussion and debate. He urged a Bill of Rights which was speedily adopted, his words being:

"'A bill of rights is what the people are entitled to against every government on earth and what no government should refuse.'

"This Bill of Rights became the crowning finish of our constitutional efforts. It provides:

"'Article 10. The powers not delegated to the United States nor prohibited by it to the states, are reserved to the states or to the people.'

"Haley is not being let alone though for 60 generations it has been instilled into the minds of our people that we have a right to do as we will with our own and to be let alone in doing it. That which has abided so long can not be abandoned in a day nor in one generation.

"Referring to ourselves, the trial court, as treated in the recent Haley decision by the United States Supreme Court, we do not concede that we were or are within that realm of procedure where that unusual and drastic remedy of mandamus is applied. No ruling of the higher court was disobeyed. Let the record speak: The defendant Evetts Haley had produced wheat and fed it to his own stock on his own premises. He was charged with violation of the Marketing Act. He had marketed nothing and was acquitted.

"In the Wickard case, 317 U. S. 111, the constitutionality of a law was at issue. In the Haley case the guilt or innocence of a man was the test.

"The Wickard case was decided in the depth of depression when the 'Blue Eagle' was soaring. The Haley case was up in a much later era of abundance when government warehouses were bursting with surplus wheat.

"Again, the marketing law had now been in use long enough for its effects to become manifest, particularly upon the small independent farmer. He had abandoned his farm and sought work in the industries. Populous farming communities have vanished. We find here and there a large farm operated by mechanized equipment. The small farmer is gone. Many counties in the agricultural belt have lost from 10 to 12 thousand population. It is obvious that the small farmer can no longer buy and own a home with the proceeds of his own labor. Oliver Goldsmith well declared:

"'A bold yeomanry, a country's pride, when once destroyed can never be supplied.'

"It appears that we did not render the judgment expected or desired by the Agriculture Department, but it must be remembered that the Supreme Court wrote no instruction and handed down no opinion as our guide. If we, in the judgment of the Court, were in error, and the only end was to make the law more certain, then a simple and considerate course would have suggested that the case be reversed with the direction that judgment be entered for plaintiff without hanging on

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a drastic threat of mandamus. And, too, every judge higher or lower takes an oath to uphold and defend the Constitution and administer justice, which must be done as he sees it.

"We now enter the judgment for plaintiff not because we can conscientiously feel it to be just, but in obedience to the mandate. To refuse would be to invite judicial chaos which every judge and every lawyer must avoid.

"The Court may tell us what to do, but it may not tell us what to think or believe. With all deference to the Court, we respectfully dissent."

Supply-Management

The numerous, ugly injustices resulting from compulsory wheat acreage allotments, that went into effect in 1954, caused so much bad publicity for the whole agricultural program that Congress modified the law to give some relief to small wheat farmers who raise wheat for their own use.

On August 28, 1957, President Eisenhower signed into law a Bill (which had been urged by Ezra Taft Benson) allowing small farmers to grow up to 30 acres of wheat for their own use.

This vestige of freedom has now been eliminated.

In his farm message of March 16, 1961, President Kennedy urged Congress to approve a program devised principally by Dr. Willard W. Cochrane, a Minnesota economist. The Kennedy-Cochrane scheme prescribed a "supply-management" system in which Committees of Farmers, under control of the Secretary of Agriculture, would regulate the production and income of American farmers. The system is basically the same as the fascist system in Italy during the days of Mussolini, and not greatly different from the collective-farm system of communist countries.

Congress failed to act on the Kennedy-Cochrane proposal in 1961. In 1962, the Kennedy farm program retained the communist-fascist "supply-management" feature for certain major commodities, but abandoned the Farmers' Committees proposal of 1961.[8]

The Senate approved the Kennedy farm bill for 1962; but the House, by a narrow margin, defeated it.[9]

Farm legislation eventually enacted by Congress in 1962 expanded existing programs, and laid foundations for instituting the fascist-communist system proposed by Dr. Cochrane and President Kennedy in 1961. Congress repealed all existing exemptions of small growers from the compulsory wheat control program and authorized the Secretary of Agriculture to conduct a wheat referendum in 1963 to determine whether the "supply-management" system should go into effect for 1964.

Even after the compulsory wheat control program went into effect in 1954, farmers who raised only 15 acres, or less, of wheat were exempt from some controls. Such farmers could not market their wheat and they got no price supports for it; but they could raise up to 15 acres (if they had previous records of planting that much) for their own use. The 1957 law raised their exemption for home use to 30 acres.

The 1962 law abolished these exemptions. Henceforth, a small farmer will be permitted to plant only as much wheat as the average of his annual plantings during the 1959-1961 crop years. This means that there can be no *new* wheat farmers in the future. Wheat farming is frozen, limited to those already in the business. Small farmers who (for any reason), during the 1959-1961 base years planted only two or three acres of wheat will be forever barred from planting more than two or three acres. Big operators who were planting hundreds of thousands of acres under federal subsidies during 1959-1961, can continue planting that much.

This program — deliberately giving a wheat-producing monopoly to big planters who thrive on government subsidies and thus support government programs — will become even worse if the wheat referendum (on May 21, 1963) approves the supply-management scheme.

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The Current Fight: David and Goliath

In previous years, fewer than 10% of America's wheat farmers voted in a wheat referendum. Small farmers (who had nothing to gain from the subsidy and control programs and who could retain a measure of freedom by not participating) ignored the referendums. Hence, the only farmers who voted, generally, were those in favor of the government's programs—less than 10% of the total.

This year, however, self-interest *compels* small farmers to vote. If two-thirds of the farmers voting in the wheat referendum this year approve the "supply-management" system, *all* wheat farmers will be totally controlled.

For the first time in history, small independent wheat farmers, who believe in freedom, are working desperately to get out the vote in a wheat referendum.

Farmers For Freedom (P. O. Box 1427, Telephone 234-9564, Fargo, North Dakota) is one of the most active of all organizations formed by small wheat farmers to fight for the freedom to farm.

To the total limit of their time and resources, the farmers who formed, and who run, this organization are working to get wheat farmers out to vote in the May 21 referendum and to educate them to the significance of their vote.

The Farmers For Freedom, however, have very limited resources. The Department of Agriculture has mobilized the resources of the Federal Government to offset the farmers' influence. The thousands of employees in the Department are being used, wherever possible, as political campaigners (in violation of federal law) for a *yes* vote in the forthcoming wheat referendum. Every agency of the Department; every local agency that receives any kind of federal "assistance"; even the land-grant colleges (which receive federal money), are being used as political-propaganda centers to influence a *yes* vote.

Tons of expensive materials (produced at taxpayers' expense and delivered free of charge by the Post Office Department) are going out over the land.

High officials of government are using the prestige of their office to get radio-television time and newspaper space, for interviews and statements supporting a *yes* vote in the wheat referendum.

Moreover, officialdom does not hesitate to use threats and intimidation. Small farmers who want to vote in the wheat referendum are obliged to sign a statement of intent to participate, receiving stern warnings of harsh penalties if they vote and then do not comply with all wheat-control regulations. The Commodity Credit Corporation holds hundreds of millions of dollars' worth of "surplus" wheat accumulated under subsidy programs of previous years. Officialdom is threatening to dump this wheat so that there would be no free market for new wheat — and to lower price supports so that new wheat could not be sold to the government at a profit — all this, if wheat farmers vote *no* on the referendum.

On the other hand, farmers are promised high prices and guaranteed incomes if they vote *yes*.

A Cause for All Americans

If the wheat referendum of May 21 approves the "supply-management" system for wheat, the same system will, inevitably, be extended to other basic commodities. When we have the supply-management system for all basic agricultural commodities, we will have a communized agricultural system in the United States. With this basic industry communized, what can save all the rest?

Every American who cares (city dweller or farmer) should give maximum support to the farmers who are trying to turn out a *no* vote in the wheat referendum on May 21, 1963.

Specific Things That You Can Do

If you know any farmers anywhere in the United States, send each one a copy of this

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Report with a personal note asking him to vote *no* in the wheat referendum.

Ask your friends to get extra copies of this *Report* for distribution to *their* friends. If you can afford it, offer to provide them with copies of this *Report* for distribution.

Urge every organization, in which you have influence, to distribute copies of this *Report*, and offer whatever help you can afford.

If you wish to do more, get in touch with Farmers For Freedom (P. O. Box 1427, Telephone 234-9564, Fargo, North Dakota) and ask how you can help.

For our part, we will give away as many thousands of copies of this *Report* as *we* can afford.

Finally

Regardless of how the May 21, 1963, wheat referendum comes out, every American who cares should use this *Report* (or comparable material) to help support the Adair Bill.

For the past several years, United States Representative E. Ross Adair (Republican, Indiana) has introduced a Bill to repeal the Agricultural Adjustment Act of 1938. Nothing else will solve the "farm problem" in the United States.

The Adair Bill would leave farmers free-dom to farm. It would eliminate the vast cesspool of corruption which government subsidies and controls have created (as illustrated by the Billie Sol Estes case, and by the rice-allotment scandals, and by innumerable corn scandals).[10] It would save American taxpayers more than 5 billion dollars a year.

The current Adair Bill (HR 5157), introduced on March 28, 1963, is presently in the House Committee on Agriculture.[11] The Chairman of this Committee is Harold D. Cooley (Democrat, North Carolina).

FOOTNOTES

(1) See this *Report*, "A Yank Named Yankus," August 11, 1958; and "A Strange Story About Wheat," August 15, 1958
(2) *Interlocking Subversion In Government Departments*, Report of the U. S. Senate Internal Security Subcommittee of the Judiciary Committee, July 30, 1953, p. 44
(3) *Historical Statistics of the United States, Colonial Times to 1957*, U. S. Department of Commerce, Bureau of the Census, 1960; and *Chicago Daily Tribune* editorial reprinted in *Human Events*, June 9, 1962
(4) *New London (Ohio) Record* editorial reprinted in the *Detroit Times*, April 14, 1959, p. 14
(5) "God Bless This Honorable Court," *The Dan Smoot Report*, September 22, 1958
(6) "Decision Reversed — A Study in Tyranny," *The Dan Smoot Report*, March 16, 1959
(7) *The Dallas Morning News*, April 6, 1962, p. 4; *The Dallas Times Herald*, October 15, 1962
(8) "Communizing and Corrupting Agriculture," *The Dan Smoot Report*, June 11, 1962
(9) For voting in both House and Senate, see "Congress or Dictator's Assembly?," *The Dan Smoot Report*, July 9, 1962
(10) Remarks by U.S. Senator John J. Williams (Republican, Delaware), *Congressional Record*, February 24, 1961, pp. 2473 ff.; "Farmers Panic over Rice Partnerships and Allotment Purchases: 'It's bigger than Billie Sol,'" *Farm and Ranch*, December 1962, p. 11
(11) *Congressional Record*, March 28, 1963, p. 4733

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WHO IS DAN SMOOT?

Dan Smoot was born in Missouri. Reared in Texas, he attended SMU in Dallas, taking BA and MA degrees from that university in 1938 and 1940.

In 1941, he joined the faculty at Harvard as a Teaching Fellow in English, doing graduate work for the degree of Doctor of Philosophy in the field of American Civilization.

In 1942, he took leave of absence from Harvard in order to join the FBI. At the close of the war, he stayed in the FBI, rather than return to Harvard.

He worked as an FBI Agent in all parts of the nation, handling all kinds of assignments. But for three and a half years, he worked exclusively on communist investigations in the industrial midwest. For two years following that, he was on FBI headquarters staff in Washington, as an Administrative Assistant to J. Edgar Hoover.

After nine and a half years in the FBI, Smoot resigned to help start the Facts Forum movement in Dallas. As the radio and television commentator for Facts Forum, Smoot, for almost four years spoke to a national audience giving both sides of great controversial issues.

In July, 1955, he resigned and started his own independent program, in order to give only one side — the side that uses fundamental American principles as a yardstick for measuring all important issues.

If you believe that Dan Smoot is providing effective tools for those who want to think and talk and write on the side of freedom, you can help immensely by subscribing, and encouraging others to subscribe, to *The Dan Smoot Report.*

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